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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,775	10/15/2001	Dianne D. Mueller	US20010143	3779

173 7590 08/12/2003

WHIRLPOOL PATENTS COMPANY - MD 0750  
500 RENAISSANCE DRIVE - SUITE 102  
ST. JOSEPH, MI 49085

EXAMINER

CIRIC, LJILJANA V

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/977,775

Applicant(s)  
Mueller et al.

Examiner  
Ljiljana V. Ciric

Art Unit  
3743



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 27, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above, claim(s) 27-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Oct 15, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4,5,8 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election of the species directed to the method of operating a refrigerated oven to cook a food as described in paragraphs [0010] through [0018] and readable on claims 1 through 26 in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 27 through 46 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to non-elected species or inventions, there being no allowable generic or linking claim. Election was made without proper traverse in Paper No. 7, as noted above.

### ***Requirement for Information***

3. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

4. In response to this requirement, please provide the names of any products or services that have incorporated the claimed subject matter.

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5. In response to this requirement, please provide copies of each publication which any of the applicants authored or co-authored and which describe the disclosed subject matter of the elected first species of the instant invention.
6. In response to this requirement, please provide a copy of EP Application No. 02 02 2260 which is the subject of the European Search Report dated April 23, 2003 listed on the Information Disclosure Statement filed on June 3, 2003, Paper No. 8.
7. The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.
8. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete reply to the requirement for that item.
9. This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.

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***Specification***

10. The disclosure is objected to because of the following informalities: the last sentence of paragraph [0006] does not correctly characterize what the *Filipowski* patent does and does not disclose, and thus constitutes a misrepresentation of the previously issued *Filipowski* patent. For example, it is a misstatement that the *Filipowski* patent “does not address maintaining the cooked food at a temperature suitable for serving upon completion of the bake cycle [see column 10, lines 57-63 of *Filipowski*].

Appropriate correction is required.

***Claim Rejections - 35 U.S.C. § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1 through 26 are rejected under 35 U.S.C. 102(a) as being anticipated by Richard Babyak’s “Getting Connected: Network News”, posted on the internet on August 16, 2000. This article discloses that the instant invention was made public on or before August 16, 2000 by Whirlpool Corporation.

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13. Alternately, claims 1 through 26 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. According to Richard Babyak's "Getting Connected: Network News", posted on the internet on August 16, 2000, the instant invention appears to have been made public by Whirlpool Corporation before October 15, 2000.

14. An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: (a) On which date did the public announcement relating to the instant invention as cited in Richard Babyak's "Getting Connected: Network News" occur? (b) Which other public announcements and/or press releases were made in connection with the instant invention? When? To which audiences? (C ) When were the prototypes mentioned in Richard Babyak's "Getting Connected: Network News" first assembled? When did the prototype testing begin? Who tested the prototypes and how? How and when were the prototypes disposed of? (d) At which trade shows were prototypes or concept appliances related to the instant invention displayed? When were these trade shows, if any? Was the use of the prototypes or concept appliances demonstrated at the trade shows? Which brochures were made available to the public at the trade shows? Copies of the latter are requested. (e) Where else (other than at trade shows), when, and for which audiences were demonstrations of models or prototypes of the instant invention conducted?

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

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*Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sun's press release "Sun Microsystems and Whirlpool Corporation Team Up to Build Networked Home Solutions", dated January 6, 2000, and Planet Save.Com's article on "Future Homes", dated March 4, 2002, each discloses remote controlled appliances and methods of using the same.


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric, whose telephone number is (703) 308-3925. While she works a flexible schedule that varies from day to day and from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached on (703) 308-0101. The fax phone number is (703) 305-3463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

lvc

August 10, 2003

  
LJILJANA V. CIRIC  
PRIMARY EXAMINER  
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